

Court of Appeals, State of Michigan

ORDER

People of MI v David Lee Allan

Docket No. 305283

LC No. 11-004013-FH

Joel P. Hoekstra
Presiding Judge

David H. Sawyer

Douglas B. Shapiro
Judges

The Court orders that the motion to remand pursuant to MCR 7.211(C)(1) is GRANTED, in part. This matter is REMANDED to the trial court for an evidentiary hearing and determination whether the jury was sworn before trial commenced. MCR 6.412(F). Although the circuit court register of actions indicates that the jury was sworn, the trial transcript contains no record of the swearing of the jury. In all other regards, the motion to remand is DENIED for failure to demonstrate a need for a remand at this time. The Court retains jurisdiction and the time for proceeding with the appeal in this Court shall begin to run upon issuance of an order in the trial court that disposes of the post-conviction proceedings.

Defendant-appellant shall also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry. The trial court shall hear and decide the matter within 56 days after the Clerk's certification of this order. The trial court shall make findings of fact and a determination on the record and cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

The time for proceeding with the appeal shall begin to run 14 days after the date this order is certified if the motion to initiate the post-conviction proceedings is not filed in the trial court within that 14-day period.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 12 2012

Date

Larry S. Royster
Chief Clerk